(2) Offer a hazardous material for transportation or transport a hazardous material in commerce, or represent, mark, certify, or sell a packaging or container, under a false or altered exemption, approval, registration or other grant of authority issued under this subchapter or subchapter A of this chapter.

[Amdt. 171–70, 48 FR 2655, Jan. 20, 1983, as amended by Amdt. No. 171–100, 54 FR 25004, June 12, 1989; Amdt. 171–12, 56 FR 8624, Feb. 28, 1991; Amdt. No. 171–115, 57 FR 30631, July 9, 1992; 57 FR 37902, Aug. 21, 1992; Amdt. No. 171–120, 58 FR 33305, June 16, 1993; Amdt. 171–2, 59 FR 49132, Sept. 26, 1994; Amdt. 171–141, 61 FR 21101, May 9, 1996]

§ 171.3 Hazardous waste.

(a) No person may offer for transportation or transport a hazardous waste (as defined in §171.8 of this subchapter) in interstate or intrastate commerce except in accordance with the requirements of this subchapter.

(b) No person may accept for transportation, transport, or deliver a hazardous waste for which a manifest is required unless that person:

(1) Has marked each motor vehicle used to transport hazardous waste in accordance with §390.21 or §1058.2 of this title even though placards may not be required;

(2) Complies with the requirements for manifests set forth in §172.205 of this subchapter; and

(3) Delivers, as designated on the manifest by the generator, the entire quantity of the waste received from the generator or a transporter to:

(i) The designated facility or, if not possible, to the designated alternate facility;

(ii) The designated subsequent carrier; or

(iii) A designated place outside the United States.

NOTE: Federal law specifies penalties up to $250,000 fine for an individual and $500,000 for a company and 5 years imprisonment for the willful discharge of hazardous waste at other than designated facilities. 49 U.S.C. 5124.

(c) If a discharge of hazardous waste or other hazardous material occurs during transportation, and an official of a State or local government or a Federal agency, acting within the scope of his official responsibilities, determines that immediate removal of the waste is necessary to prevent further consequence, that official may authorize the removal of the waste without the preparation of a manifest. [NOTE: In such cases, EPA does not require carriers to have EPA identification numbers.]

NOTE 1: EPA requires shippers (generators) and carriers (transporters) of hazardous wastes to have identification numbers which must be displayed on hazardous waste manifests. See 40 CFR parts 262 and 263. (Identification number application forms may be obtained from EPA regional offices.)

NOTE 2: In 40 CFR part 263, the EPA sets forth requirements for the cleanup of releases of hazardous wastes.

[Amdt. 171–53, 45 FR 34586, May 22, 1980, as amended by Amdt. 171–53, 45 FR 74648, Nov. 10, 1980; Amdt. 171–78, 49 FR 10510, Mar. 20, 1984; Amdt. 171–107, 54 FR 40068, Sept. 29, 1989; Amdt. 171–111, 55 FR 52466, Dec. 21, 1990; 56 FR 66157, Dec. 20, 1991; Amdt. 171–2, 59 FR 49132, Sept. 26, 1994; Amdt. 171–141, 61 FR 21102, May 9, 1996]

§ 171.4 Marine pollutants.

(a) Except as provided in paragraph (c) of this section, no person may offer for transportation or transport a marine pollutant, as defined in §171.8, in intrastate or interstate commerce except in accordance with the requirements of this subchapter.

(b) The requirements of this subchapter for the transportation of marine pollutants are based on the provisions of Annex III of the 1973 International Convention for Prevention of Pollution from Ships, as modified by the Protocol of 1978 (MARPOL 73/78).

(c) *Exceptions.* Except when transported aboard vessel, the requirements of this subchapter specific to marine pollutants do not apply to non-bulk packagings transported by motor vehicles, rail cars or aircraft.

[Amdt. 171–116, 57 FR 52934, Nov. 5, 1993, as amended by Amdt. 107–39, 61 FR 51337, Oct. 1, 1996]

§ 171.5 Temporary regulation; liquefied compressed gases in cargo tank motor vehicles.

(a) *Operation of new and existing cargo tank motor vehicles.* For a cargo tank motor vehicle used to transport liquefied compressed gases, other than carbon dioxide, §178.337–11(a)(1)(i) of this

subchapter requires that each internal self-closing stop valve and excess flow valve must automatically close if any of its attachments are sheared off or if any attached hoses or piping are separated. Other regulations in parts 173 and 180 of this subchapter reference this requirement or similar requirements in effect at the time of manufacture of a cargo tank motor vehicle. Notwithstanding this requirement, a DOT MC 330 or MC 331 specification cargo tank motor vehicle, or a non-specification cargo tank motor vehicle conforming to the requirements of §173.315(k) of this subchapter, may, without certification and demonstrated performance of the internal self-closing stop valve or the excess flow feature or self-closing stop valve of its emergency discharge control system, be represented for use and used to transport certain liquefied compressed gases under the following conditions:

(1) *Use.* The cargo tank motor vehicle must otherwise be operated, unloaded and attended in full conformance with all applicable requirements of this subchapter and the following additional requirements:

(i) Before initiating each transfer from a cargo tank motor vehicle to a receiving system, the person performing the function shall determine that each component of the discharge system (including hose) is of sound quality and free of leaks and that connections are secure. This determination shall be made after the pressure in the discharge system has reached no less than equilibrium with the pressure in the cargo tank.

(ii) Prior to commencing transfer using a new or repaired transfer hose or a modified hose assembly for the first time, the hose assembly must be subjected to a pressure test. The pressure test must be performed at no less than 120 percent of the design pressure or maximum allowable working pressure (MAWP) marked on the cargo tank motor vehicle, or the pressure the hose is expected to be subjected to during product transfer, whichever is greater. This test must include all hose and hose fittings arranged in the configuration to be employed during transfer operations. A hose or associated equipment that shows signs of leakage, significant bulging, or other defects, may not be used. Where hoses are used to transfer liquefied compressed gases, a procedure must be instituted to ensure that hose assemblies are maintained at a level of integrity suited to each hazardous material. An acceptable procedure for maintenance, testing and inspection of hoses is outlined in publication RMA/IP–11–2, ''Manual for Maintenance, Testing and Inspection of Hose'', 1989 edition, published by the Rubber Manufacturers Association, 1400 K Street, N.W., Washington, DC 20005.

(iii) If there is an unintentional release of lading to the environment during transfer, the internal self-closing stop valve shall be promptly activated, and the qualified person unloading the cargo tank motor vehicle shall promptly shut down all motive and auxiliary power equipment. Prompt activation of the internal self-closing stop valve may be accomplished through:

(A) Compliance with §178.337–11(a)(1)(i) of this subchapter; or

(B) A qualified person positioned within arm's reach of a mechanical means of closure of the internal self-closing stop valve at all times the internal self-closing stop valve is open; except, that person may be away from the mechanical means only for the short duration necessary to engage or disengage the motor vehicle power take-off or other mechanical, electrical, or hydraulic means used to energize the pump and other components of the cargo tank motor vehicle's discharge system; or

(C) A fully operational remote-controlled system capable of stopping the transfer of lading by operation of a transmitter carried by a qualified person attending unloading of the cargo tank motor vehicle. Where the means for closure of the internal self-closing stop valve includes a remote-controlled system, the attendance requirements of §177.834(i)(3) of this subchapter are satisfied when a qualified person:

(*1*) Is carrying a radio transmitter that can activate the closure of the internal self-closing stop valve;

(*2*) Remains within the operating range of the transmitter; and

(*3*) Is awake throughout the unloading process, and has an unobstructed

view of the cargo tank at all times that the internal self-closing stop valve is open.

(iv) A cargo tank motor vehicle that has an emergency discharge system conforming to the requirements in §178.337–11(a)(1)(i) of this subchapter may be operated under the provisions of this paragraph (a)(1).

(v) A comprehensive written emergency operating procedure must be developed for all transfer operations and hazmat employees who perform unloading functions must be trained in its provisions. The emergency operating procedure must be prominently displayed in or on the cargo tank motor vehicle.

(vi) As required by §172.704 of this subchapter, each manufacturer, assembler, retester, motor carrier and other hazmat employer subject to the requirements of this section shall ensure that its hazmat employees are trained to properly perform these new function-specific requirements including the meaning of the marking specified in paragraph (b) of this section. The hazmat employer shall ensure that a record of the training is created, certified, and maintained as specified in §172.704(d) of this subchapter.

(2) *Continuing qualification.* An existing in-service cargo tank motor vehicle may continue to be marked and documented as required by part 180 of this subchapter if the following statement is added to the Certificate of Compliance by the owner or operating motor carrier: ''Emergency excess flow control performance not established for this unit.''

(3) *New cargo tank motor vehicles.* A new (unused) cargo tank motor vehicle manufactured, marked and certified prior to March 1, 1999, may be marked and certified as conforming to specification MC 331 if it otherwise meets all requirements of the specification and the following statement is added to the certification document required by §178.337–18 of this subchapter: ''Emergency excess flow control performance not established for this unit.''

(b) *Marking.* The following marking must be displayed on a cargo tank motor vehicle used or represented for use under this section:

(1) The letters must be white and the background black.

(2) The letters must be at least 1.5cm in height.

(3) The marking must be 6cm×15cm.

(c) Requirements of this section are applicable to a cargo tank motor vehicle used to transport liquefied compressed gases, other than carbon dioxide, from August 16, 1997 through July 1, 1999.

[62 FR 44048, Aug. 18, 1997, as amended at 62 FR 65194, 65195, Dec. 10, 1997]